

# HOLD UP OF ENVOY'S OFFICIAL MAIL CAUSES NEW U. S. PROTEST TO BERLIN

## MISTRAL IN BREITUNG SUIT IS CAUSED BY KLEIST'S TALE OF ATTACKS BY GUNMEN

Newspaper Interview Causes Judge Hand to Throw Out \$250,000 Action.

JUDGE SCORES KLEIST.

Justice Cannot Be Done After His Prejudicial Statements, Declares Court.

Max Kleist's suit for \$250,000 damages against E. N. Breitung for the alleged alienation of the affections of Juliet Breitung Kleist, was dismissed to-day by Judge Learned Hand in the United States District Court. The Court declared a mistrial because Kleist told newspaper reporters that after he spoke of bringing a suit he had been beaten by thugs both in New Mexico and in New York.

This published interview, the Court ruled, held an inference that the beatings were instigated by the Breitungs, which was calculated to prejudice the minds of the jurors; hence the dismissal.

While William Johns, a mine superintendent, was testifying how well Kleist had been treated by order of Mr. Breitung, Mr. Nicol showed several newspapers to Judge Hand, in which he told of beatings he alleged had been given him by unknown men and threats made against him since he threatened to bring a suit against Breitung.

Judge Hand dismissed the jury for ten minutes and called several reporters to the bench and questioned them as to Kleist's story that he had been assaulted by gunmen in New Mexico and by thugs in an Eighteenth Street garage in New York.

The reporters said Kleist had voluntarily told the story to them. "No," said Kleist, when the Judge asked him if this were true. "I didn't volunteer it, Your Honor. A reporter asked me if the story was true, and I told him it was, that's all. I only told the men in the garage. They must have told the reporters first."

Other reporters gathered around the bench as this informal examination proceeded.

"Go away," Judge Hand commanded them. "I do not want any more of this in the papers. There has been too much now."

JUDGE DECLARES KLEIST IS AT FAULT.

"It is clear," said the Judge to Attorney Crowley, representing Kleist, "that the fault lies with your client. He admits he made the statements that were published."

Then Court and counsel held a long conference as to whether or not the trial should be continued.

Judge Hand finally sent for the jury and said:

"Gentlemen, I am going to bring this trial to an end and discharge you from any further consideration of it. My reasons for doing this are the extreme abuse of the press of this city in the reporting of this case while it has been going on. They have printed publicly, and no doubt many of you have read them, statements made by the plaintiff which were not made on the stand and which were of an exceedingly prejudicial character to the defendants. They have gone so

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## BANKER AND HIS WIFE MURDERED BY ROBBERS

Victims Trussed Up With Ropes and Woman's Apron Straps, Then Beaten to Death.

OAKLAND, Cal., Feb. 12.—Jacob Vogel, former President of the Citizens' Bank of Fruitvale, and his wife were found murdered to-day in their home in Fruitvale, a suburb. They had been beaten to death by burglars, who first trussed them up with ropes and Mrs. Vogel's apron strings.

## DARING RESCUE IN POND.

Policeman Saves Woman and Nearly Loses His Life.

The thin ice covering the eastern channel of the Passaic River at Passaic, N. J., broke to-day while Mrs. Marie Lebach of No. 22 Monroe Street was crossing. Her screams as she fell into the water attracted Policeman James Callahan. He walked gingerly across the ice to her aid, but it broke beneath him.

Observing the plight of the policeman and the woman from the shore, a young man whose name was not learned got a long ladder and put it across the ice to the hole. Callahan, who had been holding Mrs. Lebach's head above the surface, helped her out and then crawled to safety. Both went home after receiving first aid from a physician.

## NO MONEY TO MOVE MAST.

Aldermen Refuse \$2,500 to Shift Lipton Gift.

The Finance Committee of the Board of Aldermen has decided that the present is not the time to expend \$2,500 for a flag pole in Astoria Park, Queens, even though the pole be the mast of the Shamrock III, and have so notified Park Commissioner Weber.

"This seems hardly the time to spend a sum of this magnitude for the establishment in a public park a cast-off remnant of a defeated yacht," says the report of the Committee sent to the Park Commissioner.

The mast was presented by Sir Thomas Lipton and was raised on Queensboro Bridge Plaza. Rapid transit work made it necessary to move the mast.

## MOVIE LINCOLN IS BALKED.

Actor Not Allowed to Speak From City Hall Steps.

A motion picture stunt in City Hall Park this afternoon ran against a police snag, to the grief of the promoters. Benjamin Chapin, an actor whose chief claim to fame is that he looks like Abraham Lincoln, got out of a taxicab at the Park Row side and walked over to the City Hall, where he mounted the steps, took off his high hat and started to make a speech. He was dressed in the sort of clothes Lincoln wore and his resemblance to Lincoln's photographs was striking.

But he had no permit to make a speech or gather a crowd and two policemen drove him into City Hall. Then the movie people got busy trying to get the necessary permits, only to find that city officials are conscientious about observing holidays and could not be found.

## FOUR IN FAMILY POISONED.

All Dead and Four Others Sick After Eating Bread.

ARILENE, Tex., Feb. 12.—Four members of the T. T. Garrison family near Anson, Tex., are dead and four others seriously ill from poisoning, by bread made from milk out of a rusty tin vessel.

## BREAK WITH WIFE BACK OF CREMIN'S SUICIDE IN CLUB

Dead Man Grieved Over Loss of Children, Who Went With Mother.

WILL BE CREMATED.

Victim Asks That Ashes Be Thrown From Roof of Lambs' House.

William B. Cremin, who committed suicide in the Lambs Club yesterday, was moved to take his life, it is believed, through grieving for his two children, whom he thought lost to him. Adelaide and "Bill," whom he mentioned in a farewell note left by him to "Fellow Lambs," had gone with their mother when Mrs. Cremin recently left her husband after an agreement to separate.

What caused the break in the Cremin home and where Mrs. Cremin went with the two children, members of the Lambs' Club who knew Cremin have not yet learned. It is said that the separation came recently and only after Mrs. Cremin announced that differences with her husband were irreconcilable.

Cremin boarded in the same house with his sister at No. 169 East Seventh Street, and to others in the house he made no secret of his grief over the loss of his children or of his great love for them.

Mrs. Cremin, it was understood to-day, has continued to live at Echo Hall, Cremin's handsome home on Beacon Avenue, New Rochelle. Her daughter lives with her, and the son, whom the father affectionately called "Bill," is a student in a private school at Cornwall. He is eighteen.

To-day Mrs. Cremin left New Rochelle with her brother to come to New York and claim the body of her husband for the undertaking establishment at No. 75 West Forty-seventh Street, where it was taken from the Lambs' Club.

Frank Croxton, the singer whom Cremin requested in his farewell note to render a song in his memory, said to-day that Cremin had entertained a party at luncheon at Delmonico's yesterday and had come into the Lambs' Club at a few minutes before 6 o'clock.

He hailed Croxton genially, saying he had just "had a large time" and was going to a room to rest. That was the last seen of Cremin alive.

On the floor in the room was found a razor which Cremin had used to end his life. On a table was a letter, which read:

"I am tired. I have decided to go. I prefer to be cremated. After the ashes are swept up 'tis my desire that they be thrown to the winds from the roof of the Lambs' Club."

"I would like Father Lavelle and Dr. Houghton of the Little Church Around the Corner to care for the funeral services. I should like my dear friend Wilton Lackaye, if he wishes to say a few words—he tells the truth—but I hope he won't tell it about me."

"Take care of Adelaide and tell George Loft to appoint Bill to West Point."

"I have always loved music, and if my friend, Frank Croxton, cares to compliment my memory, &c.—if I can remember it in the next world I shall thank him."

"I want Gus Barrett to end the ceremony by singing that song which is a remarkable hymn and a wonderful composition, 'Hail All!'"

## TAXI TRUST GETS ANOTHER SETBACK FROM APPRAISERS

Report Says Stock Hasn't Been Destroyed, but Is Worth \$88.43 a Share.

HIGH COST OF FIGHT.

Vain Battle to Dodge New Law Cut Into Profits of Concern.

Newly laid plans to attack the Public Hack ordinance on the ground that it had practically destroyed the Yellow Taxicab Company by bringing it to the verge of bankruptcy, received a setback and The Evening World received complete justification of its fight against the taxicab monopoly when Carlisle Norwood, Daniel E. Seybel and James W. Hyde, appraisers appointed by the Supreme Court to value the stock of the Yellow Company, filed their report to-day with Supreme Court Justice Vernon M. Davis.

The appraisers found that instead of being near bankruptcy the company on the day it consolidated with the Mason-Seaman Transportation Company had more than a million dollars in assets and that neither its good will nor its contracts were destroyed by the ordinance of The Evening World's fight for the passage of the law.

That the company intends to begin a new fight on the ordinance was made evident by the objections filed to the report by attorneys for the Yellow Taxicab Company, who have asked Justice Davis not to confirm the report of the appraisers but to declare that the stock has no value and the company no good will. Should this be established the company will be in a position to attack the ordinance on the ground that its provisions are confiscatory and therefore unconstitutional.

The decision of Justice Cochran on Tuesday declaring the newly amended public hack ordinance legal in every respect wiped out the taxi company's last chance of defeating the old ordinance on grounds that have been threshed out three times in the Supreme Court and Court of Appeals.

Not unexpectedly the company's officers who testified before the appraisers blamed the company's loss in profits on the ordinance and The Evening World's fight, but it was brought out that such losses as occurred were due not only to the company's stubborn resistance to the ordinance but to the fact that in order to carry on the useless fight \$26,513.31 was spent in legal fees and \$26,770.92 to overcome adverse public opinion and stimulate business. These two items helped largely to make the loss of the company during its last fiscal year of existence as the Yellow Taxicab Company reach the sum of \$150,000.

The appraisal of the company has been going on since last May. The action was brought under the Business Law by William H. Seale, a pioneer cab and taxi owner, who owned 313 shares of Yellow stock and who was in favor of operating the concern under the new ordinance.

After finding that his stock was equivalent to 802½ shares of stock in the consolidated company the appraisers fixed the value of Mr. Seale's stock at \$88.43 a share or \$15,254.39 for all.

While special attention is not directed to it the appraisers brought out from the books the fact that during the first fiscal year (1912-1913) of the Yellow Taxicab Company's existence \$31,521.24 was charged to free rides, \$24,328.14 to commissions and \$104,421 to office expenses, which included legal fees and advertising. The next fiscal year (1913-1914) saw the free rides reduced to \$15,668.27. It was preceding and during this fiscal year that the Grand Jury began to look into the road case.

## Kaiser, on East Prussian Line Of Battle, Giving Directions



## PRESS IN BERLIN REPLIES TO U. S. WAR ZONE MESSAGE

Defends the Position Taken by the German Government and Renews Warning.

BERLIN, Feb. 12 (via wireless to the United Press).—The Berlin newspapers make few comments on the note from the United States Government in relation to the war zone, but there is a general justification of the Government in the editorials printed.

The Tagesspiegel points out that the suggestion that submarines must ascertain beyond the possibility of mistake that the ship to be attacked belongs to a belligerent cannot always be complied with. It asks how a mine that has been planted is to distinguish what flag a ship is flying and insists that the German Government is well within its rights when it announces

## GERMAN SUBMARINE STOPS DUTCH STEAMER THEN LETS HER GO.

LONDON, Feb. 12. (Associated Press).—A despatch to the Evening News from Rotterdam says that the Dutch steamer Duiderik, flying the Dutch flag, was stopped by a German submarine in the North Sea.

She was compelled to show her papers, after which she was permitted to proceed to Rotterdam.

## GERMANY IS WELL SUPPLIED WITH FOOD, SAYS HIGH OFFICIAL.

BERLIN, Feb. 12 (by wireless to Sayville, L. I.).—The Prussian Minister of Agriculture stated to a newspaper correspondent that Germany was assured of a supply of food and would be able to continue the war longer than France or Russia.

Are You Going South? Wichita, Kansas has descriptive literature of all Southern States. Write for it. It is free. Write to the Southern Railway, P. O. Box 100, New York, N. Y.

## GERMANS NOW WARNED AGAINST INTERFERING WITH OFFICIAL MAIL

Bryan Cables Ambassador Gerard to Get an Explanation of Hold-Up of Envoy Van Dyke's Letters to Luxemburg.

## CZAR'S ARMY IS DRIVEN OUT OF EAST PRUSSIA.

WASHINGTON, Feb. 12.—The State Department today asked for an explanation from the German Government of the interference with Minister Van Dyke's communication between Holland and Luxemburg.

Mr. Van Dyke complained to Washington that the Kaiser's military forces had prevented his letters from reaching Luxemburg, to which Government he is accredited as Minister as well as to The Hague.

It was understood the letters were held up because they bore the American Legation seal.

Secretary Bryan, in announcing that an explanation had been demanded, said Ambassador Gerard at Berlin had been instructed to make representations to the German Foreign Office.

[Henry Van Dyke, the United States Minister to The Hague and also to the Grand Duchy of Luxemburg, yesterday sent a protest to Washington against the action of the German military commander at Trier (Treves), who had refused to permit his letters to pass because they were sealed with the seal of the American Legation.]

Dr. Van Dyke had been trying for four days, through the friendly medium of the German Minister at The Hague, to obtain an explanation from Berlin.

"The action of the German commander at Trier may have been a mistake of ignorance," he said, "but it must be explained and apologized for."

"I cannot consent to interference with my duties toward Luxemburg by any power in the world except that which conferred them upon me—the Government at Washington."

## Kaiser at the Battle Front As Russian Army Is Forced Back

BERLIN, Feb. 12 (via wireless to the United Press).—With the Kaiser again on the eastern battle front, fighting of the most severe character is progressing along the East Prussian frontier, on the Vistula and in the Carpathian region, with results described by the General Staff as "eminently satisfactory."

The fighting along the East Prussian front has resulted in the Russians being forced back across the border onto their prepared bases, where they are now attempting a return to the offensive. The Russians are bringing up enormous quantities of reinforcements and supplies, and it is reported here that the Grand Duke Nicholas, Commander in Chief of the Russian army, is personally in command of the operations at this point.

The German lines have been reinforced from the reserve columns by fresh troops sent from the various fortress bases miles in the rear of the present fighting line. It is believed that the presence of the Kaiser on the battle front at this time indicates the initiation of a new offensive against a portion of the line that previously has been free from any fighting.

Vienna despatches declare the Austro-German offensive in Bukovina and in the Carpathians is being pushed. More than half of Bukovina is declared already to have been evacuated by the Russians, and the Austro-German forces have broken through the Russian defensive at at least two points in Southern Galicia and are in heavy force there. Indications point to a new and vigorous attempt to relieve Przemyel and to retake Lemberg being made shortly.

## Retreat from East Prussia Officially Admitted in Russia

PETROGRAD, Feb. 12.—Explanation of the retirement of the Russian forces in East Prussia is made to-day in an official statement, which says: "It is believed we are upon the eve of a great operation which must solve definitely the struggle in East Prussia." The Russians are seeking the shelter of their own defenses, the statement asserts, before attempting to take "more extensive" operations.